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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,674	10/31/2003	Richard D. Carter	100202751-1	1022

22879 7590 01/18/2008  
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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER
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ALMEIDA, DEVIN E

ART UNIT	PAPER NUMBER
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2132

NOTIFICATION DATE	DELIVERY MODE
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01/18/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

**Application No.**

10/698,674

**Applicant(s)**

CARTER, RICHARD D.

**Examiner**

Devin Almeida

**Art Unit**

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-18,21-36,39-42 and 45-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-18,21-36,39-42 and 45-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This action is in response to the papers filed 10/29/2007

### ***Response to Argument***

Applicant's arguments have been fully considered but they are not persuasive. DeMello clearly teaches "loading replacement media content from a server at the facility into the digital entertainment unit, wherein the replacement media content is identified by the signature tag" in column 16 line 53 – column 17 line 29. DeMello teaches in the case where titles are, for some reason, not backed up, it may be possible to recover any titles lost or damaged from the retailer. For example, the user may keep the receipt page from a title purchase (i.e., the page that contains the download links), and simply "re-visit" the link to connect to a download server to obtain a new copy of the eBook ("LIT") file 10 that embodies the title. Users can keep their receipts locally or alternatively, the retail store may chose to offer customers the service of storing their receipts on retailer's server). This receipt used to restore lost or damaged title is included in the meta-data associated with the title according to column 4 lines 40-45. Therefore part of the signature tag (i.e. meta-data) is being used to identify the media (i.e. title).

Applicant's arguments have been fully considered but they are not persuasive. DeMello clearly teaches "wherein the digital entertainment unit is repaired at the facility that is associated with the destination address" in column 16 line 53 – column 17 line 29 i.e. it may be possible to recover any titles lost or damaged from the retailer. For

example, the user may keep the receipt page from a title purchase (i.e., the page that contains the download links), and simply "re-visit" the link to connect to a download server (i.e. facility) to obtain a new copy of the eBook.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1, 4-6, 9-11, 13-18, 21-23, 26-28, 30-34, 36, 39-42 and 45-49 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMello et al (U.S. Patent 7,017,189).

With respect to claim 1, a method for remote data backup and restoration, the method comprising: storing a track (i.e. ebook) into a memory of a digital entertainment unit (see column 4 lines 53-58 i.e. reader), wherein the track includes media content and wherein the track is provided by a content provider (see column 5 line 18-19); creating a signature tag (see figure 4 and column 4 lines 40-45 i.e. meta-data) that identifies the track (see column 4 lines 40-45 i.e. title) that is stored in the memory of the digital entertainment unit and that identifies the digital entertainment unit (see column 5 lines 11-15 i.e. activation certificate for a particular person and column 13 lines 54-65 i.e. the download server adds the consumer's name); wherein the signature tag comprises a

first part including information about a customer, digital entertainment unit, and source of the track (see figure 4 and column 4 lines 40-45, column 7 lines 5-7 and column 13 lines 54-65 i.e. the download server adds the consumer's name); transmitting the signature tag to a destination address (see column 13 lines 54 – column 6 line 9); repairing the digital entertainment unit at a facility that is associated with the destination address (see column 16 line 53 – column 17 line 29 i.e. However, in the case where titles are, for some reason, not backed up, it may be possible to recover any titles lost or damaged from the retailer. For example, the user may keep the receipt page from a title purchase (i.e., the page that contains the download links), and simply "re-visit" the link to connect to a download server to obtain a new copy of the eBook ("LIT") file 10 that embodies the title. Users can keep their receipts locally or alternatively, the retail store may chose to offer customers the service of storing their receipts on retailer's server); authenticating the track based upon the signature tag which identifies the track that is stored in the memory of the digital entertainment unit (see column 10 lines 28-44 and column 13 lines 54 – column 6 line 9); and loading replacement media content from a server at the facility into the digital entertainment unit, (see column 16 line 53 – column 17 line 29 i.e. However, in the case where titles are, for some reason, not backed up, it may be possible to recover any titles lost or damaged from the retailer. For example, the user may keep the receipt page from a title purchase (i.e., the page that contains the download links), and simply "re-visit" the link to connect to a download server to obtain a new copy of the eBook ("LIT") file 10 that embodies the title. Users can keep their receipts locally or alternatively, the retail store may chose to offer customers the service

of storing their receipts on retailer's server) wherein the replacement media content is identified by the signature tag (see column 16 line 53 – column 17 line 29 i.e. However, in the case where titles are, for some reason, not backed up, it may be possible to recover any titles lost or damaged from the retailer. For example, the user may keep the receipt page from a title purchase (i.e., the page that contains the download links), and simply "re-visit" the link to connect to a download server to obtain a new copy of the eBook ("LIT") file 10 that embodies the title. Users can keep their receipts locally or alternatively, the retail store may chose to offer customers the service of storing their receipts on retailer's server).

With respect to claim 4, wherein the first part of the signature tag comprises at least one of a unique file name, ID3 data, information related to the digital entertainment unit, customer information, and authentication identifier (see figure 4 and column 9 lines 39-46).

With respect to claim 5, wherein the ID3 data is obtained from a stored MP3 file that includes the track (see column 9 lines 23-56 and Fig. 4).

With respect to claim 6, wherein the signature tag comprises: a second part including content information about the track (see column 9 lines 23-56 and Fig. 4).

With respect to claim 9, wherein the signature tag comprises: a header including a destination address for the signature tag (see column 6 lines 34-60 and Figs. 1-3; examiner notes that target addressing information, including that of the target server, is inherent in the operation of a web interface).

With respect to claim 10, further comprising: storing the signature tag at a server with the destination address (column 10 lines 40-44).

With respect to claim 11, wherein the signature tag is stored in a customer account folder in the server, and wherein the customer account folder is associated with an owner of the digital entertainment unit (see column 11 lines 30-54).

With respect to claim 13, further comprising: if the track has been authenticated, then loading the replacement media content into the memory of the digital entertainment unit after repairing the digital entertainment unit (see column 12 line 38 – column 13 line 67 and column 16 line 53 – column 17 line 29).

With respect to claim 14, wherein the authenticated track replacement media content is obtained from a content owner by use of a communication line from a facility of the content owner to the server that is associated with the destination address (see column 16 line 53 – column 17 line 29).

With respect to claim 15, wherein the authenticated track replacement media content is obtained from the server after checking the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 16, an apparatus for remote data backup and restoration, the apparatus comprising: a digital entertainment unit (see figure 1 and column 5 lines 30-67) configured to store a track (see column 5 lines 11-15 i.e. title), to create a signature tag (see column 5 lines 11-15 i.e. activation certificate) that identifies the track that is stored in the digital entertainment unit (see column 4 line 18 – column 5 line 28) and that identifies the digital entertainment unit (see column 5 lines 11-15 i.e. activation

certificate for a particular person and column 13 lines 54-65 i.e. the download server adds the consumer's name), and to transmit the signature tag to a destination address (see column 12 lines 48-51 i.e. the activation certificate is uploaded to a "download" or "fulfillment" server), wherein the track includes media content (see column 5 line 18-19 i.e. ebook), and wherein the signature tag comprises a first part including information about a customer, digital entertainment unit, and source of the track (see column 5 lines 11-15 i.e. activation certificate for a particular person and column 13 lines 54-65 i.e. the download server adds the consumer's name); and wherein the digital entertainment unit is repaired at a facility that is associated with the destination address and replacement media content is loaded from a server at the facility into the digital entertainment unit, wherein the replacement media content is identified by the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 17, wherein the digital entertainment unit further comprises: a processor (Fig. 1 element 21); a memory (Fig. 1 element 22); and a tag module that is executable by the processor (see column 4 line 18 – column 5 line 28), wherein the tag module is configured to create the signature tag that is associated with the track stored in the memory (see column 4 line 18 – column 5 line 28) and to transmit the signature tag to the a repair facility for repairing the digital entertainment unit (see column 10 lines 28-44).

With respect to claim 18, wherein the track is authenticated at the a repair facility based upon the signature tag (see column 16 line 53 – column 17 line 29).



With respect to claim 21 (previously presented): The apparatus of claim 16, wherein the first part of the signature tag comprises at least one of a unique file name, ID3 data, information related to the digital entertainment unit, customer information, and authentication identifier (see column 7 lines 1-7).

With respect to claim 22, wherein the ID3 data is obtained from a stored MP3 file that includes the track (see column 9 lines 23-56 and Fig. 4).

With respect to claim 23, wherein the signature tag comprises: a second part including content information about the track (see column 9 lines 23-56 and Fig. 4).

With respect to claim 26, wherein the signature tag comprises: a header including a destination address for the signature tag (see column 6 lines 34-60 and Figs. 1-3; examiner notes that target addressing information, including that of the target server, is inherent in the operation of a web interface).

With respect to claim 27, wherein the signature tag is stored at a server in a repair facility (column 10 lines 40-44).

With respect to claim 28, wherein the signature tag is stored in a customer account folder in the server, and wherein the customer account folder is associated with an owner of the digital entertainment unit (see column 11 lines 30-54).

With respect to claim 30, wherein if the track has been authenticated, then the track replacement media content is restored loaded into the memory of the digital entertainment unit after repairing the digital entertainment unit (see column 12 line 38 – column 13 line 67 and column 16 line 53 – column 17 line 29).

With respect to claim 31, wherein the replacement media content is obtained from a content owner by use of a communication line from a facility of the content owner to a repair facility (see column 16 line 53 – column 17 line 29).

With respect to claim 32, wherein the authenticated track replacement media content is obtained from the server after checking the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 33, an apparatus for remote data backup and restoration comprising: means for storing a track (i.e. ebook) into a memory of a digital entertainment unit (see column 4 lines 53-58 i.e. reader), for creating a signature tag (see column 5 lines 11-15 i.e. activation certificate) that identifies the track (see column 5 lines 11-15 i.e. title) that is stored in the memory and that identifies the digital entertainment unit (see column 12 lines 38-45 i.e. the secure repository executable and activation certificate are then downloaded to the client and column 13 lines 54-65), and for transmitting the signature tag to a destination address (see column 12 lines 48-51 i.e. the activation certificate is uploaded to a "download" or "fulfillment" server), wherein the storing means is repaired at a facility that is associated with the destination address and replacement media content is loaded from a server at the facility into the storing means, wherein the replacement media content is identified by the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 34, an article of manufacture, comprising: a machine-readable medium having stored thereon instructions to permit a digital entertainment unit to perform the steps comprising (see column 4 lines 53-58 i.e. reader): store a track

(i.e. ebook) into a memory of the digital entertainment unit (see column 4 lines 53-58 i.e. reader); create a signature tag (see column 5 lines 11-15 i.e. activation certificate) that identifies the track (see column 5 lines 11-15 i.e. title) that is stored in the memory of the digital entertainment unit and that identifies the digital entertainment unit (see column 12 lines 38-45 i.e. the secure repository executable and activation certificate are then downloaded to the client and column 13 lines 54-65); transmitting the signature tag to a destination address (see column 12 lines 48-51 i.e. the activation certificate is uploaded to a "download" or "fulfillment" server); and load replacement media content from a server associated with the destination address into the digital entertainment unit, wherein the replacement media content is identified by the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 36 (currently amended): A method for authenticating media content, the method comprising: receiving a signature tag (see column 5 lines 11-15 i.e. activation certificate) that identifies a track (i.e. ebook) that is stored in a memory of a digital entertainment unit and that identifies the digital entertainment unit (see column 12 lines 38-45 i.e. the secure repository executable and activation certificate are then downloaded to the client and column 13 lines 54-65); wherein the track includes media content (see column 3 lines 43-45); wherein the signature tag comprises a first part including information about the customer, digital entertainment unit, and source of the track (see column 5 lines 11-15 i.e. activation certificate for a particular person and column 13 lines 54-65 i.e. the download server adds the consumer's name); and authenticating the track based upon the signature tag (see column 10 lines 28-44); and

loading replacement media content from a server into the digital entertainment unit, wherein the replacement media content is identified by the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 39, wherein the signature tag comprises: a second part including content information about the track (see column 9 lines 23-56 and Fig. 4).

With respect to claim 40, wherein the signature tag comprises: a header including a destination address for receiving the signature tag (see column 6 lines 34-60 and Figs. 1-3; examiner notes that target addressing information, including that of the target server, is inherent in the operation of a web interface).

With respect to claim 41, wherein the signature tag is stored in an account folder (see column 11 lines 30-54).

With respect to claim 42, an apparatus for authenticating media content, the apparatus comprising: a server configured to receive a signature tag (see column 5 lines 11-15 i.e. activation certificate) that identifies a track (i.e. ebook) that is stored in a memory of a digital entertainment unit (see column 12 lines 38-45 i.e. the secure repository executable and activation certificate are then downloaded to the client and column 13 lines 54-65) and that identifies the digital entertainment unit (see column 5 lines 11-15 i.e. activation certificate for a particular person and column 13 lines 54-65 i.e. the download server adds the consumer's name), and to permit authentication of the track based upon the signature tag (see column 10 lines 28-44), wherein the track includes media content (see column 3 lines 43-45), and wherein the signature tag comprises a first part including information about a customer, digital entertainment unit,

and source of the track (see column 5 lines 11-15 i.e. activation certificate for a particular person and column 13 lines 54-65 i.e. the download server adds the consumer's name); wherein replacement media content is loaded into the digital entertainment unit, wherein the replacement media content is identified by the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 45, wherein the signature tag comprises: a second part including content information about the track (see column 9 lines 23-56 and Fig. 4).

With respect to claim 46, wherein the signature tag comprises: a header including a destination address of the server for receiving the signature tag (see column 6 lines 34-60 and Figs. 1-3; examiner notes that target addressing information, including that of the target server, is inherent in the operation of a web interface).

With respect to claim 47, wherein the signature tag is stored in an account folder (see column 11 lines 30-54).

With respect to claim 48, a method for remote data backup and restoration, the method comprising: creating a signature tag (see column 5 lines 11-15 i.e. activation certificate) that identifies a track (i.e. ebook) that is stored in a memory of a digital entertainment unit and that identifies the digital entertainment unit (see column 12 lines 38-45 i.e. the secure repository executable and activation certificate are then downloaded to the client and column 13 lines 54-65); transmitting the signature tag to a destination for storage (see column 12 lines 48-51 i.e. the activation certificate is uploaded to a "download" or "fulfillment" server); and loading replacement media content from a server at the destination into the digital entertainment unit, wherein the

replacement media content is identified by the signature tag (see column 16 line 53 – column 17 line 29).

With respect to claim 49, authenticating the track based upon the signature tag (see column 10 lines 28-44).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMello et al (U.S. Patent 7,017,189) in view of Margolus et al., (U.S. Patent Publication No. 2004/0255140). Examiner notes that Margolus is a continuation of application No. 09/785,535, filed 16 February 2001, and of provisional application No. 60/183,466, filed 18 February 2000, both of which disclose the relied upon subject matter.

Regarding claims 7 and 24: DeMello discloses a method of remote data backup including content information as indicated regarding claims 6 and 23, above. DeMello does not explicitly disclose that the content information is obtained from a third party service. Margolus discloses that the content information is obtained from a third party service [0161]. Therefore, it would have been obvious to one skilled in the art at the time

by Olarig in order to confirm that the unit malfunction is not due to unauthorized components (see Olarig, col. 4 lines 57-61).

Regarding claim 35: DeMello discloses A method for remote data backup and restoration, the method comprising: loading a track into a memory of a digital entertainment unit (DEU); creating a signature tag that identifies the track that is loaded by a customer into the memory of the digital entertainment unit (DEU) (col. 4-5 lines 18-28) and that identifies the digital entertainment unit; transmitting the signature tag to a destination address (col. 10 lines 28-44) and storing the signature tag into an account folder that is associated with the customer (col. 11 lines 30-54); repairing the DEU at the repair facility (col. 12 lines 11-37), determining the tracks legally obtained by the customer by examining the signature tags in the customer account folder (col. 10 lines 28-44); and loading replacement media content from a server at the repair facility into the memory of the DEU, wherein the replacement media content is identified by the signature tag (column 16 line 53 – column 17 line 29); and returning the DEU to the customer (col. 12-13 lines 38-67 and col. 16-17 lines 53-29). DeMello does not explicitly disclose sending the DEU that has failed to the repair facility; or returning the DEU to the customer. Olarig discloses sending the DEU that has failed to the repair facility (col. 2 lines 1-3); and returning the DEU to the customer (col. 2 lines 1-3). Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify DeMello by the function of submitting a unit for repair work as taught by Olarig in order to confirm that the unit malfunction is not due to unauthorized components (see Olarig, col. 4 lines 57-61).

of the invention to modify DeMello by the use of a third party service as taught by Margolis in order to make more efficient use of storage space (see Margolus [0161]).

Regarding claims 8 and 25: DeMello discloses a method of remote data backup including content information as indicated regarding claims 6 and 23, above. DeMello does not explicitly disclose that the content information comprises album data and track data. Margolus discloses that the content information comprises album data and track data. [0161]. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify DeMello by the use of album data and track data as taught by Margolis for the benefit of cataloging while eliminating essentially duplicate copies of the same material (see Margolus [0161]).

Claims 12, 29 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMello et al (U.S. Patent 7,017,189) in view of Olarig et al. (U.S. Patent No. 6,032,257).

Regarding claims 12 and 29: DeMello discloses a method and apparatus for remote data backup as indicated regarding claims 1 and 16, above. DeMello does not explicitly disclose sending the digital entertainment unit to the repair facility if the digital entertainment unit is subject to failure. Olarig discloses sending the digital entertainment unit to the repair facility if the digital entertainment unit is subject to failure (col. 2 lines 1-3). Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify DeMello by the function of submitting a unit for repair work as taught



***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Almeida whose telephone number is 571-270-1018. The examiner can normally be reached on Monday-Thursday from 7:30 A.M. to 5:00 P.M. The examiner can also be reached on alternate Fridays from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DA

Devin Almeida  
Patent Examiner  
12/17/2007

  
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